IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 5387of 2006

Date of decision: January 31, 2007.

Suresh Kumar Sharma

.....Petitioner.

Vs.

The State of Haryana and others

.....Respondents.

Present: Mr.Rameshwar Sharma Advocate with
Mr.Raghuvinder Singh, Advocate for the petitioner.

Mr. Kartar Singh, Assistant Advocate General, Haryana,
for the respondent-State.

JUDGMENT

M.M.Aggarwal, J.

Petitioner had joined Sports Department Haryana on 19.3.1983 as Senior Athletics Coach. Then in the year 1997 due to family circumstances, he made a request on 25.2.1997 for permitting him to resign /voluntary retirement w.e.f. 31.5.1997 with all retiral benefits. His resignation was accepted on 6.6.1997 and he was retired w.e.f. 31.5.1997 but it was specified that he will not get any benefit of service, rendered in the department. Then petitioner filed civil writ petition bearing No. 6365 of 1998, which was disposed of on 31.8.1999 with the direction that request of the petitioner for voluntary

retirement and for retrial benefits be considered. Then that request was rejected on 30.12.1999 by the Government. He made some further request, which was again considered and rejected and the State Government refused to grant him pensionary benefits. Thereafter, present petition was filed for grant of retiral benefits after counting the entire service.

Earlier service of the petitioner is stated to be with BSF for about 2 years 10 months and then with NIS, Patiala i.e. Punjab Government for about 3 years i.e. from 23.2.1980 to 18.3.1983.

On behalf of the State, it had been pleaded that petitioner had not completed 20 years of service and benefit of Rules 6.16(2) of CSR Vol.II shall be available only in the case where petitioner had retired on attaining the age of superannuation but in this case, he had sought voluntary retirement. He had submitted resignation and sought voluntary retirement when he had just completed about 14 years of service with the Haryana State.

No rules or instructions have been produced on behalf of the petitioner to show entitling him counting of service for the purpose of pensionary benefits for the period spent in the BSF or in N.S.NIS Patiala i.e. Punjab State. As such, service rendered with the Haryana State i.e. 19.3.1983 to 31.5.1997 can only be considered as far as pensionary benefits payable by Haryana State are concerned.

Counsel for the petitioner had relied on judgments of this Court reported as **Haryana State through Collector, District Bhiwani, Bhiwani Vs. Madan Pal Ahlawat 2003(1) SCT 327** and argued that petitioner was entitled to proportionate pension for the period he had rendered service as per Rule 6.16(2) of the Punjab Civil Services Rules, Vol. II. In this judgment, some other judgments earlier rendered, had been relied. Another judgment of

Division Bench of this Court in **C.W.P. No. 2890 of 1997 (Babu Singh Vs. State of Haryana and others** was relied to show that where a government servant had rendered about 17 years of service he was granted benefit of pension under Rule 6.16 (a) of the Rules.

On behalf of the State, it was argued that Rule 6.16(2) was not applicable as petitioner did not retire on attaining the age of superannuation.

In view of the law laid down by this Court in **Madan Pal Ahlawat's and Babu Singh's cases (supra),** petitioner shall be entitled to proportionate pension as per Rules 6.16 (2) of the Punjab Civil Service Rules, Volume II.

Under these circumstances, this petition is allowed and it is held that petitioner be granted proportionate pension for the period he had rendered service with the respondent-State. Needful be done within a period of three months.

(M.M.Aggarwal)
Judge

January 31, 2007
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